

BAILIFF'S HANDBOOK

The court-martial is the most visible of all those procedures that, while dedicated to the proposition of equal justice under law, are designed for the protection of the community. A trial should be conducted in such a manner as to command the respect of the members of the community it serves and to assure them that the law is functioning in a manner which will preserve order. Anything that detracts from an atmosphere of respect for the law and the authority of the court is to be avoided.

The trial of a case should not be burdened with resolution of petty administrative matters. Every party to the trial should know what is expected and the military judge and trial counsel should receive the assistance of the bailiff who has been instructed as to the bailiff's responsibility. The bailiff should normally be senior to the accused. A bailiff is disqualified if he or she is, or has been, in the same case, the accuser, a witness, an investigating officer, counsel, or has previously served as a member of the accused court-martial. The clerk of the court will provide a briefing of the bailiff's responsibilities.

The bailiff may look to the trial counsel for specific instructions as to duties and for directions before and after each session of the court. While the court is in session, the bailiff is under the direct supervision of the military judge and will assist the military judge and both counsels in the conduct of an orderly trial. The bailiff should be familiar with the location of the principle offices and facilities (such as the library and copier room).

DUTIES OF THE BAILIFF

PRIOR TO THE TRIAL

1. Report to the clerk of court. Courthouse, Trial Service Office, Lemoore California, in the appropriate uniform (service dress blue in winter; summer dress whites in summer) 30 minutes before the commencement of the trial proceedings. The clerk of court will provide you a checklist and instruct you on where to find supplies for the courtroom. You will also be given the number of the assigned courtroom, the names of the judge, counsel, and the location of the court reporter. In addition, you will be informed whether the case will be tried with members (also known as a jury).

You will be required to:

- a. Turn on the courtroom lights.
- b. Ensure that the thermostat is set at a comfortable temperature (normally 74 degrees).
- c. Ensure that water and cups have been provided for the military judge, both counsel, and the witness (if the court-martial is to last more than one day).
- d. Ensure that there is tissue paper in the witness stand.
- e. Ensure all furniture is neatly placed throughout the courtroom.
- f. Discard any trash. Return anything that appears important to the clerk of court.
- g. During recesses, or any other time, the bailiff is only permitted to take a smoke break adjacent to the Bldg. 56.

2. When the courtroom is ready, report to the trial counsel who will inform you when the trial is scheduled to begin and any additional duties you will perform.

3. Five minutes before the trial is scheduled to begin, ensure the accused, counsel, and the court reporter are present in the courtroom and inform them that you are going to get the military judge.

4. Ensure you are covered before reporting to the military judge. Identify yourself as the bailiff, and inform the military judge that all parties are ready to proceed.

ENTRY AND DEPARTURE OF THE MILITARY JUDGE

1. Bailiff will precede the military judge, enter through the judge's entrance, and with a loud and clear voice, state: **"ALL RISE"**.

2. When the military judge has entered, shut the door and proceed to the bailiff's seat. Remain standing until the judge has entered the judge's bench and directs those present in the courtroom to be seated.

3. Whenever the military judge gives an indication that he/she will depart the courtroom (“court is in recess”, “court is adjourned”, “court is closed for deliberations”), the bailiff will stand and again state: **“ALL RISE”**. The bailiff will remain in the area of the courtroom unless otherwise authorized by the trial counsel.

4. Be attentive to the reconvening time set by the military judge. Five minutes before the trial is scheduled to resume, ensure all parties are in place, then report to the military judge.

ENTRY AND DEPARTURE OF THE PANEL MEMBERS

1. The military judge will instruct the bailiff to summon the panel members at the appropriate time. Bailiff will proceed to the deliberation room, turn to the court, and state: **“ALL RISE”**, open the deliberation room door, and request that the members enter the panel box. **It is important that the members enter the door in the order indicated by their nameplates arranged to avoid unnecessary confusion within the panel box.** Bailiff will escort panel members to the courtroom and then return to the bailiff’s seat.

2. During the course of the trial, as ordered by the military judge, the panel will depart the courtroom several times. Bailiff will promptly stand and state: **“ALL RISE”**, proceed to the deliberation room door, open it, and allow the members to pass through and return to the bailiff’s seat.

MISCELLANEOUS DUTIES OF BAILIFF DURING THE TRIAL

1. Bailiff will remain covered at all times during trial proceedings unless otherwise directed by the military judge.

2. Summon court members to the courtroom at the beginning of each session of court when advised by the military judge or trial counsel.

3. Summon witnesses to the courtroom when directed by the military judge.

- a. Bailiff may depart the courtroom through the spectator’s entrance when summoning a witness.
- b. Bailiff shall lead the witness to the witness stand, ask the witness to step inside, then return to the bailiff’s seat.

4. When requested by the military judge, collect written questions from panel members and hand them to the military judge or trial counsel as instructed by the military judge.

5. When requested, collect evidence or exhibits from counsel, deliver it to the court reporter for marking, then hand the evidence to the military judge for his perusal.

6. When instructed by the military judge, deliver items of evidence to the deliberation room when the panel members retire to consider findings.

7. Perform administrative errands during the trial as requested by the military judge and/or counsel.

8. If the military judge does not require the bailiff's services during periods of time prior to the convening or reconvening of trial proceedings, wait in the courtroom.

9. When directed by trial counsel, the bailiff will assist in securing the courtroom. The court reporter is responsible for the proper security of all evidence and member's notebooks if used.

10. During any recess for meals, when the trial is continued until the following day, or is recessed over a weekend, the bailiff shall ensure that the courtroom is properly cleaned per the checklist provided by the clerk. Report to the clerk of the court before departing.

ATTITUDES AND RELATION OF THE BAILIFF TO THE ISSUES AND PARTIES TO THE TRIAL

1. Bailiff shall remain neutral in all respects throughout the trial of a case.

2. Bailiff shall **never** participate in any discussion regarding the court-martial with **anyone**. If someone persists, immediately report the incident to the military judge.

3. Bailiff shall **avoid** making any comments or physical gestures during trial. In this regard, bailiff will also avoid making any comments on the performance of any court-martial party or on the testimony of any witness.

4. If the bailiff observes any witness or panel member involved in a discussion with another person on the merits of the case, he/she shall courteously inform that person that such discussions are not allowed and inform the military judge of the matter.

5. Bailiff shall at all times observe proper courtroom decorum, military bearing, and etiquette toward all persons involved in the proceedings.

CONCERNING SPECTATORS AND PERSONS OF THE GENERAL NEWS MEDIA

1. Any spectators and/or members of the general media are expected to observe the proper courtroom decorum as required in a federal court of law.

2. Unless otherwise instructed by the military judge, the bailiff should be aware that military trials are public hearings and spectators and members of the general

news media are welcome to observe the trial proceedings. The spectator's door should never be locked.

3. Bailiff shall ensure that these persons can enter the courtroom, be seated, and leave quietly while court is in session.

4. Federal law does not permit picture taking by any mechanical or electronic means, nor the use of any electrical/electronic recording devices or equipment in the courtroom. Persons may take notes and perform artistic sketches/renderings of the trial events provided it does not distract or disrupt the trial proceedings. Problems concerning these matters should be brought to the attention of the trial counsel without delay at the first convenient time.

5. Spectators shall be in the uniform of the day or appropriate civilian attire.

6. Courtroom rules do not permit spectators to eat, drink, sleep, smoke, or engage in conversation in the courtroom while court is in session. The only beverages permitted in the courtroom at any time are pitchers of water for the court participants. The bailiff shall quietly and diplomatically inform the offenders of these rules. Seek assistance from the clerk if necessary.

7. When the court is in session, and there are distractions (noises, talking, or activity) in the hallways adjacent to the courtroom, the bailiff shall quietly rise, leave the courtroom and courteously caution the individuals concerned and or close the door to the courtroom.

8. Weapons of any kind are not permitted in the courtrooms. This includes those worn by potential witnesses and spectators. Bailiffs are permitted to only wear handcuffs in the courtroom, which are to be used to restrain the accused when appropriate. All other weapons should be checked with the clerk of court.

9. Rowdiness and violence are not unknown in the courtroom. The bailiff must be alert and prepared to take immediate steps to suppress unruly behavior.

COURT MEMBERS IN CLOSED SESSION

1. When the court members are in closed session for findings, sentencing, or for any reason deemed appropriate by the military judge, **only the panel members are permitted in the deliberation room**. Bailiff will not enter, nor permit anyone else to enter during the closed session.

2. When panel members are instructed to consider their findings and/or sentence, you will ensure that all commercial literature is removed from the deliberation room.

3. Bailiff will be available to panel members directly outside the deliberation room at all times during closed session and shall be the only contact between the military judge and other court members during this time.

4. In the event that the bailiff is instructed to deliver any item or message to the court members during closed session, the bailiff must first obtain approval from the military judge.

5. When panel members are ready to announce their findings, and/or sentence, the bailiff will notify the trial and defense counsel, court reporter, and the military judge.

CONTINUANCE/CONCLUSION OF A TRIAL

1. **Clean up:** You are required to:

- a. Discard any trash. Dispose of all used drinking cups.
- b. Place furniture in its proper place, including spectator and deliberation room areas.
- c. Collect all water pitchers and wash them with soap and water, and place them in the supply room of the judiciary. If this space is locked, place the pitchers in the kitchen area for safekeeping.
- d. Return anything that appears important to the clerk of court.
- e. Turn off the courtroom lights.

2. Should the trial be continued, bailiff will collect the member's folders and deliver them to the court reporter for proper storage. If the trial has been concluded, bailiff will collect the folders and give them to the clerk of the court for disposition.

3. Upon conclusion of a trial and if the bailiff is also a brig chaser, he/she should confer with the trial counsel for further instructions concerning the accused. While the counsel is preparing the confinement orders, the brig chaser(s) and accused shall wait in the courtroom or in the witness waiting area **ONLY**. You are not permitted to wait in the TSO's space or adjacent passageways.